

INTERVENTION



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BEFORE THE ARIZONA CORPORATION

ORIGINAL

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COMMISSIONERS

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB 20 2009

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*MM*

IN THE MATTER OF THE APPLICATION )  
OF THE SOLAR ALLIANCE FOR A )  
DECLARATORY ORDER THAT )  
PROVIDERS OF CERTAIN SOLAR )  
SERVICE AGREEMENTS WOULD NOT BE )  
PUBLIC SERVICE CORPORATIONS )

DOCKET NO. E-20633A-08-0513

APPLICATION FOR LEAVE TO  
INTERVENE

Pursuant to A.A.C. R14-3-105, Sempra Energy Solutions LLC ("SES") hereby submits its Application For Leave To Intervene in the above-captioned and above-docketed proceeding.

I.

**IDENTIFICATION OF APPLICANT AND  
ITS INTEREST IN INSTANT PROCEEDING**

SES is the applicant in a proceeding currently pending before the Commission in which SES has requested a Certificate of Convenience and Necessity ("CC&N") authorizing it to engage in retail electric competition within the State of Arizona. That proceeding has been docketed as Docket No. E-03964A-06-0168. Pursuant to Decision No. 70485, issued on September 3, 2008, procedural activities in that proceeding have currently been suspended pending Commission consideration and resolution of certain questions pertaining to the status of retail electric competition within the State of Arizona. Several of those questions potentially embody "public interest" implications which could affect all aspects in the provision of electric services to the ultimate consumer in Arizona, regardless of the legal nature or identity of the electric service provider in question.

The request by the Applicant in the instant proceeding is essentially in the nature of "An Adjudication Not A Public Service Corporation," which is a form of proceeding that the Commission has conducted from time-to-time on previous occasions. In those proceedings, the Applicant has requested that the Commission determine that it has no jurisdictional nexus with the activities engaged in or proposed to be engaged in by the Applicant. Needless to say, determinations of this nature by the Commission require a great deal of reflective thought and input by persons who conceivably could be affected by the ultimate outcome. SES believes that it is such a person in this instance.

More specifically, the Commission's practice to date in the area of retail electric competition has been to require the possession of a CC&N by those persons or entities who desire to provide competitive electric services at the retail level. SES believes that a fundamental and threshold question exists as to whether the services proposed to be provided by the Applicant's members are not "for all practical and legal purposes" equivalent to those types of retail electric services which heretofore have been subject to regulation by the Commission through the issuance of a CC&N. In that regard, SES further believes that a decision on the Application in this proceeding should not be issued until a hearing has been held and briefs and/or oral argument have been presented on the "public interest" issues which would appear to be involved.

## **II.**

### **SATISFACTION OF REQUIREMENTS FOR INTERVENTION**

Given the nature of the request set forth in the Application in the instant proceeding, the Commission's issuance of a decision thereon may establish precedent relating to the legal circumstances under which electric service at the retail level is to be provided to the public in the State of Arizona in the future. In that regard, such precedent could have a direct bearing upon the future circumstances governing SES' provision of electric service in Arizona; and, such precedent conceivably could directly impact the Commission's future consideration of and decision upon SES' currently pending Application in Docket No. E-03964A-06-0168. Accordingly, SES could be substantially and directly affected by any decision which may be

issued by the Commission in the instant proceeding; and, SES is the only one who can adequately and fully represent its interests therein.

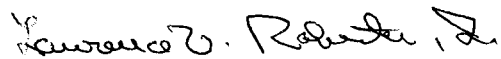
In addition, SES believes that its participation will not unduly broaden such issues as have been raised or may be implicated by the Application which has been filed in the instant proceeding. Those issues already exist, regardless of whether or not they have specifically been identified by the Applicant.

### III.

#### CONCLUSION

WHEREFORE, SES hereby requests that the Commission issue a Procedural Order (i) granting SES leave to intervene in the instant proceeding, and (ii) setting a procedural schedule for processing the Application herein, including an evidentiary hearing thereon and provision for the filing of briefs and/or oral argument.

Dated this 20<sup>th</sup> day of February 2009.



Lawrence V. Robertson, Jr.  
Attorney for Sempra Energy Solutions LLC

The original and thirteen (13) copies of the foregoing Application For Leave To Intervene will be mailed for filing this 20<sup>th</sup> day of February 2009 to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

A copy of the foregoing Application For Leave To Intervene has been emailed or mailed this same date to:

To All Parties of Record.